

KENTUCKY DEPARTMENT OF EDUCATION
STAFF NOTE

Action/Discussion Item:

702 KAR 7:065, Designation of Agent to Manage High School Interscholastic Athletics and Revisions in Kentucky High School Athletic Association Bylaws (FINAL)

Applicable Statute or Regulation:

KRS 156.070
702 KAR 7:065
KHSAA Bylaws

Action Question:

Should the Kentucky Board of Education give final approval to 702 KAR 7:065 and the documents incorporated by reference?

History/Background:

Existing Policy. 702 KAR 7:065 designates the KHSAA as the entity to manage interscholastic athletics and incorporates by reference, the Constitution (included as Attachment “A”), Bylaws (included as Attachment “B”), Due Process Procedure (included as Attachment “C”), Tournament Rules (included as Attachment “D”), Board of Control (BOC) Policies (included as Attachment “E”), Officials Division Policies (included as attachment “F”), New Member Application (included as Attachment “G”), Renewal Application (included as Attachment “H”) and Parental/Permission/Physical Exam Form (included as attachment “I”) of the KHSAA.

This regulation also requires that the Association conduct a review of its Constitution and Bylaws, and such was done during the 2006-2007 and 2007-2008 school years by the Staff and (BOC). The changes approved at the October 2007 Annual Meeting have already been approved and recommended by the Kentucky Board of Education (KBE). There were additional changes made by the KHSAA member school delegates at the September 23, 2008 Annual Meeting, which have now also been considered by the (BOC).

The detailed list of changes were presented to the Kentucky Board of Education in December, 2008. Since that time, there have been only two revisions to the documents that were previously submitted as follows.

- In consultation with LRC staff, the Constitution, Bylaws and Tournament Rules have been revised to comply with the drafting standards of KRS Chapter 13A, and
- The changes to the Due Process Procedure, as originally recommended by the Commission on Interscholastic Athletics, were reorganized for clarity between the two types of appeal.

In accordance with required procedures, these amendments have been considered by the (BOC) of the KHSAA for implementation during the 2009-10 school year unless otherwise noted. The requisite votes of the (BOC) and the membership are included as follows:

Proposal Author and Purpose	Vote	BOC
Proposal 2008 – 1. Proposed by the (BOC) - A proposal to allow for mid-year restoration of athletic eligibility based on credits earned during the first tri/semester.	167 yes, 45 no, 1 abstain 17 present	Recommended by the (BOC) for adoption by the (KBE) 15-1
Proposal 2008 – 2. Proposed by the (BOC) - A proposal to make a technical amendment to Bylaw 6 and allow the Board of a closing school to designate the school of eligibility for its students.	177 yes, 34 no, 2 abstain 17 present	Recommended by the (BOC) for adoption by the (KBE) 16-0
Proposal 2008 – 4, Proposed by the (BOC) - A proposal to modernize the custody and divorce provisions of Bylaw 6 the (Transfer Rule) and allow a transfer back to the other parent in certain joint custody situations.	177 yes, 34 no, 2 abstain 17 present	Recommended by the (BOC) for adoption by the (KBE) 16-0
Proposal 2008 – 7. Proposed by the (BOC) - A proposal to make a technical amendment to Bylaw 33 to ensure that it clearly indicates that the Commissioner and (BOC) are bound to KRS Chapter 13B.	202 yes, 7 no, 3 abstain 18 present	Recommended by the (BOC) for adoption by the (KBE) 16-0
Proposal 2008 – 10. Proposed by Kathy Johnston, Designated Representative, Bourbon County High School. A proposal to offer the penalty option of removing a team from competition for a period of time.	177 yes, 33 no, 3 abstain 17 present	Recommended by the (BOC) for adoption by the (KBE) 16-0

In accordance with approved procedures, the following amendments to the KHSAA Bylaws were approved by the listed votes but have NOT been recommended for adoption by the (BOC). At its October meeting, the (BOC) voted to table these items and consider them at a later time.

Proposal Author and Purpose	Vote	BOC
Proposal 2008 – 3. Proposed by the (BOC) - A proposal to close a loophole in Bylaw 6 by requiring that students that transfer after having participated at the varsity level to move into a specified boundary.	187 yes, 25 no, 1 abstain 17 present	TABLED by the (BOC). No action requested of the (KBE) at this time.
Proposal 2008 – 9. Proposed by the (BOC) A proposal to make revisions to Bylaw 33 to clearly specify the risks of a member school playing an athlete who has sought injunctive relief.	177 yes, 35 no, 1 abstain 17 present	TABLED by the (BOC). No action requested of the (KBE) at this time.

In addition, there were several proposed changes to the KHSAA Bylaws that were approved at the 2007 Annual Meeting, and were subsequently approved for adoption by the (KBE). Through the regulatory review process, members of the Administrative Regulation Review Subcommittee as well as the Legislative Research Commission staff recommended some revisions that were subsequently considered by the (BOC). The technical revisions compliant with KRS Chapter 13A were corrected in the appropriate sections, per consultation with the staff at LRC; however, substantive changes were delayed. Due to the amount of time that has elapsed since the initial filing, the (BOC), at its November 2008 meeting, voted unanimously to ask the (KBE) to rescind its previous approval of the KHSAA changes from the 2007 meeting, and request that the process begin again with filing for all changes approved from both the 2007 and 2008 Annual Meetings, and approved by the (BOC).

The following proposals were adopted by the (KBE), but delayed until the 2008 changes could be included. The (BOC) requests their inclusion in the regulatory approval for the 2009-2010 school year:

<p>2007-1 – Proposed by the (BOC) - A technical amendment to Bylaw 4 to re-state its intent on limitations. Rationale – With two minor changes, the (BOC) made clear the intent of the membership with respect to the four-year limitation on eligibility. This statement of principle, while not negating the Due Process rights of any student within the Due Process Procedure, reiterates a desire that no student be allowed to play more than four seasons at the high school level in a single sport once the four-year count has started.</p>
<p>2007-2 - Proposed by the (BOC) - An amendment to Bylaw 6 to codify an exception related to military transfers and clarify the section related to divorce of the parents of a student-athlete in joint custody situations. Rationale – Upon review of the current transfer rule and restrictions, the (BOC) felt that the custody situation needs to be clarified to better illustrate the provisions of the rule and its restrictions. The change in sub-section (b) makes no sustentative change, but may eliminate a perceived loophole in the rule. The new section is reflective of current events that have been handled through the Due Process Procedure, but are more appropriately handled by creating an enumerated exception within the body of the rule.</p>
<p>2007-3 - Proposed by the (BOC) - A technical amendment to Bylaw 14 removed specified penalties and instead, refers the situation to Bylaw 33 as per other rules. Rationale – This technical change would take the specified penalties from Bylaw 14 and place them more appropriately within the scope of Bylaw 33.</p>
<p>2007-5 - Proposed by the (BOC) - A proposal to change the method of counting games in soccer. Rationale – This change will revise the method for counting games in soccer to simplify the process and eliminate perceived issues and the possibility of schools exceeding the limit of games by miscounting tournaments.</p>
<p>2007-8 - Proposed by Tracy Spickard, Franklin County High School; Jim McKee, Scott County High School; Greg Scholl, Southwestern High School; Ron Madrick, Holmes High School; Fred Hester, Mason County High School. A proposal worked out in conjunction with members of the Kentucky Basketball and Football Coaches Association to attempt to minimize the conflict over student-athlete participation in those sports. Rationale: When the dead period was first instituted, the school administrators and coaches overwhelmingly favored a four-week dead period, but when it was first implemented, the desire of the membership was to start with a 15-day period and then evaluate. The current period has a couple of flaws that this proposal addressed. The football and basketball coaches associations worked together to create better opportunities for the student-athletes to be able to play both sports, without affecting the ability of either program to be competitive. This proposal clearly states that organized school vs. school competition (i.e., 7 on 7 passing leagues) in football needs to be in a defined period free from basketball conflicts (i.e., July 10 through July 31) and basketball play (summer tournaments, etc.) needs to be in a defined period free from football conflicts (i.e., June 1 through June 24). With these cooperative restrictions in place, the dead period can better address the sports it was originally intended to regulate, and not collaterally damage others.</p>
<p>2007-10 - Proposed by Gary Bartlett, Daviess County High School and Will Hodges, Green County High School. A proposal to rescind restrictions on individual sports participating in out-of-state events due to the impossible nature of monitoring opponents. Rationale – The restriction on playing non-member schools from out-of-state is a restriction that ensures that team competition is played by high school teams under the guidelines of each state association. However, this rule is difficult if not impossible to monitor in the individual sports of cross country, golf, swimming, tennis, track and wrestling. In these sports, when competition out-of-state (or even when out-of-state teams come into Kentucky), entries may be at the last minute and not finalized until arrival at the venue. KHSAA members are then left with the near impossible dilemma of deciding between competing illegally or risking the financial and competitive issues that come from immediate withdrawal. The KHSAA rules in these sports should only be concerned with what Kentucky schools can control. A school can control who it invites to its meets/contests. It is just not practical in the “individual” sports to have this restriction.</p>

2007-11 - Proposed by Jeff Edwards, Jeffersontown High School - A proposal to amend the Constitution to establish a meeting attendance threshold for elected (BOC) members. Rationale – An elected member representing the member schools be able to attend meetings representing his/her constituency. It is important to the member schools being represented that someone is at the meetings to voice the constituent beliefs and concerns on a regular basis.

There was an additional proposal approved by the (BOC) and the (KBE) for implementation. Through the regulatory review process, members of the Administrative Regulation Review Subcommittee as well as Legislative Research Commission staff recommended a revision that was subsequently considered by the (BOC). The (BOC), subsequent to that feedback and commentary, has asked that the (KBE) withdraw consideration of the following substantive item and NOT implement the change at this time.

2006 Referendum 2 – Proposed by the (BOC) on behalf of the Task Force on Interscholastic Athletics. A proposal to amend Bylaw 6 to apply the period of ineligibility following transfer (one year) to students who have played for a high school while enrolled below grade nine and then enter a different school upon entry into the 9th grade without meeting defined Bylaw 6 exceptions. This proposal addressed concerns about student-athletes “playing up” to the high school level and then not enrolling in that high school in the 9th grade, an issue that has caused considerable discussion within the membership of the association.

The staff of the KHSAA certifies that the Board of Control has taken action on these items as documented by the minutes of Board of Control meetings.

Staff Recommendation and Rationale:

KHSAA staff and the Board of Control recommend final approval of 702 KAR 7:065 and the documents incorporated by reference. The revisions better align the regulation with drafting standards of KRS Chapter 13A and update the rules for governing high school interscholastic athletics to better serve students and schools.

Groups Consulted and Brief Summary of Responses:

KHSAA Board of Control
KHSAA Annual Meeting Delegate Assembly
Local Superintendents Advisory Council

The Board of Control and Delegate Assembly have approved the revisions. A letter from the Local Superintendents Advisory Council providing its feedback will be received prior to the February meeting.

Impact on Getting to Proficiency:

Athletics contribute to the overall physical health of students and therefore affect their ability to perform academically.

Contact Person:

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Recommending Contact Person

Interim Commissioner of Education

Date:

February 2009